

EXHIBIT 4A

Witness: Charles Seward

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHARLES SEWARD,)	
Individually and on Behalf)	
of All Others Similarly)	08 CIV 3976 (KMK)
Situated,)	
)	ECF CASE
Plaintiff,)	
)	
vs.)	
)	
INTERNATIONAL BUSINESS)	
MACHINES CORPORATION,)	
D/B/A IBM CORP.,)	
)	
Defendant.)	

Videotaped deposition of CHARLES SEWARD,
taken on behalf of the Defendant, pursuant to the
stipulations contained herein, in accordance with the
Federal Rules of Civil Procedure, before Thomas R.
Brezina, Certified Court Reporter, at 1420 Peachtree
Street, Atlanta, Georgia, on the 23rd day of October,
2008, commencing at the hour of 8:05 a.m.

* * *

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Witness: Charles Seward

2 (Pages 2 to 5)

Page 2				Page 4			
1	INDEX TO EXAMINATIONS			1	INDEX TO EXHIBITS		
2	Page			2	Defendant's Marked/First		
3	Examination by Mr. Ray	8		3	Exhibit Number	Description	Identified
4	Examination by Mr. Zouras	314		4	D18	Declaration of Charles Seward dtd July 14, 2008	208
5	Further Examination by Mr. Ray	325		5			
6	INDEX TO EXHIBITS			6	D19	E-mail chain dtd February 2004	228
7	Defendant's	Marked/First		7	D20	E-mail chain dtd June 2005	230
8	Exhibit Number	Description	Identified	8			
9	D1	Letter dtd September 21, 1998, from IBM to Charles B. Seward	17	9	D21	E-mail chain dtd June 2005	231
10				10	D22	E-mail chain dtd 08/30/2005	233
11	D2	E-mail dtd 10/26/2007 from Juanlyn Williams to SCET	43	11			
12				12	D23	E-mail chain dtd September 2006	234
13	D3	E-mail dtd 4/7/2008 from Charles Seward to sewardeck@aol.com	44	13	D24	E-mail chain dtd April 2007	236
14				14			
15	D4	E-mail dtd 10/26/2007 from Juanlyn Williams to SCET	89	15	D25	E-mail from Sewardeck@aol.com to Charles Seward Jr dtd February 5, 2008	237
16				16	D26	IBM Business Conduct Guidelines dtd December 18, 2007	239
17	D5	E-mail dtd September 26, 2006, from Charles Seward Jr to sewardeck@aol.com	115	17			
18				18	D27	IBM document entitled "You and IBM - United States Additional Compensation" Updated 28 Feb 2005	252
19	D6	E-mail dtd September 29, 2006, from Charles Seward to Dan Motta	117	19			
20				20	D28	IBM document entitled "You and IBM - United States Additional Compensation" Updated 03 Mar 2008	254
21	D7	E-mail dtd May 4, 2007, from Charles Seward Jr to sewardeck@aol.com	123	21			
22				22			
23	D8	E-mail dtd August 21, 2007, from Charles Seward Jr to rjleop@verizon.net	125	23			
24				24			
25				25			
Page 3				Page 5			
1	INDEX TO EXHIBITS			1	INDEX TO EXHIBITS		
2	Defendant's	Marked/First		2	Defendant's	Marked/First	
3	Exhibit Number	Description	Identified	3	Exhibit Number	Description	Identified
4	D9	E-mail dtd October 15, 2007, from Charles Seward Jr to sewardeck@aol.com	126	4	D29	IBM document entitled "You and IBM - United States Employee relations/legal issues: Employee meal break/ rest break"	255
5				5			
6	D10	E-mail dtd October 18, 2007, from Charles Seward Jr to janieweh@optonline.net	137	6	D30	IBM document entitled "You and IBM - United States Employee relations/legal issues: Recording time worked/ compensatory time"	256
7				7			
8	D11	E-mail dtd April 15, 2008, from Charles Seward Jr to numerous addresses and cc addressees	139	8			
9				9	D31	E-mail dtd 08/03/2007 from Juanlyn Williams to SCET, SW 1 Prime, SW 11 - Rational/Lotus	264
10	D12	E-mail dtd 05/01/2008 from service@zpaypal.com to Charles Seward Jr	139	10			
11				11	D32	IBM Course Booklet Business Conduct Guidelines	271
12	D13	E-mail from Gary Kamprath (with forwarding e-mails from Isabel Colon, Sharrie Brown, and Charles Seward)	144	12			
13				13	D33	E-mail chain dtd February 2008	272
14	D14	E-mail from Kerry Bethen to Charles Seward dtd 8/27/2004	157	14			
15				15	D34	E-mail dtd 02/12/2006 from Kerry Bethen to Charles Seward	274
16	D15	E-mail chain dtd March 2004	182	16			
17				17	D35	Complaint	286
18				18			
19	D16	Agreement Regarding Confidential Information, Intellectual Property, and Other Matters for Charles Seward dtd 9/28/08	184	19	D36	Plaintiff Charles Seward's Answers to Defendant's First Set of Interrogatories to Plaintiff	288
20				20			
21	D17	E-mail dtd 08/10/2007 from Juanlyn Williams to SCET	188	21			
22				22	D37	E-mail dtd 10/01/2007 from Juanlyn Williams to SCET	291
23				23			
24				24	D38	2006 PBC for Charles Seward	294
25				25			

Witness: Charles Seward

3 (Pages 6 to 9)

Page 6	Page 8
<p>1 INDEX TO EXHIBITS</p> <p>2 Defendant's Marked/First</p> <p>3 Exhibit Number Description Identified</p> <p>4 D39 2007 PBC for Charles 302</p> <p>5 Seward</p> <p>6 D40 Software Entitlement 312</p> <p>7 Work Instructions dtd</p> <p>8 06/21/2008</p> <p>9 D41 BluePages printout 313</p> <p>10 for Debbie Bigley</p> <p>11</p> <p>12 D42 E-mail dtd 08/03/2006 325</p> <p>13 from Gary A. Kamprath</p> <p>14 to DOR Managers and</p> <p>15 Seniors</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 THE VIDEOGRAPHER: On video.</p> <p>2 CHARLES SEWARD</p> <p>3 having been first duly sworn, was examined</p> <p>4 and testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. RAY:</p> <p>7 Q Can you state your full name for the</p> <p>8 record, please?</p> <p>9 A Charles Seward.</p> <p>10 Q Have you ever been deposed before, Mr.</p> <p>11 Seward?</p> <p>12 A No.</p> <p>13 Q Have you ever been involved in litigation</p> <p>14 in any way where you gave sworn testimony in a</p> <p>15 courtroom, for example?</p> <p>16 A I don't recall.</p> <p>17 Q Were you a witness at one time in a dispute</p> <p>18 involving maybe a fight between neighbors where you</p> <p>19 were subpoenaed to court?</p> <p>20 A Yes.</p> <p>21 Q And did you give testimony in that case?</p> <p>22 A Yes.</p> <p>23 Q You understand that today we're deposing</p> <p>24 you, and I'll be asking you questions, and you'll be</p> <p>25 giving me answers?</p>
Page 7	Page 9
<p>1 APPEARANCES OF COUNSEL:</p> <p>2 On behalf of the Plaintiff:</p> <p>3 JAMES B. ZOURAS</p> <p>4 Attorney at Law</p> <p>5 Stephan Zouras, LLP</p> <p>6 205 North Michigan Avenue</p> <p>7 Suite 2560</p> <p>8 Chicago, Illinois 60601</p> <p>9 (312) 233-1550</p> <p>10 fax: (312) 233-1560</p> <p>11 jzouras@stephanzouras.com</p> <p>12</p> <p>13 On behalf of the Defendant:</p> <p>14 MATTHEW W. RAY</p> <p>15 Attorney at Law</p> <p>16 Jones Day</p> <p>17 2727 North Harwood Street</p> <p>18 Dallas, Texas 75201</p> <p>19 (214) 220-3939</p> <p>20 fax: (214) 969-5100</p> <p>21 murray@jonesday.com</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>17 Videographer: Mr. Chris Jordan</p> <p>18 Legal Video Services, Inc.</p> <p>19 3455 Peachtree Road, Suite 500</p> <p>20 Atlanta, Georgia 30326</p> <p>21 (770) 640-5050</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 A Yes.</p> <p>2 Q And do you understand that you are under</p> <p>3 oath today?</p> <p>4 A That's correct.</p> <p>5 Q And that your testimony in the deposition</p> <p>6 has the same weight and effect as if you were in a</p> <p>7 courtroom?</p> <p>8 A Yes.</p> <p>9 Q Do you understand that?</p> <p>10 A Uh-huh.</p> <p>11 Q I'll go through a couple of the rules, and</p> <p>12 we just had one. If you could answer me verbally --</p> <p>13 A Right.</p> <p>14 Q -- as opposed to shaking your head or</p> <p>15 nodding, it helps the court reporter.</p> <p>16 A Yes.</p> <p>17 Q If I ask a question today, Mr. Seward, and</p> <p>18 you don't understand it, will you let me know, and</p> <p>19 I'll try to rephrase it?</p> <p>20 A Yes.</p> <p>21 Q If you don't ask me to rephrase it, I will</p> <p>22 assume you understood my question. Is that fair?</p> <p>23 A Yes.</p> <p>24 Q If you need a break at any time today, let</p> <p>25 me know. This is not an endurance test. We can take</p>

Witness: Charles Seward

4 (Pages 10 to 13)

Page 10	Page 12
<p>1 a break whenever you want. Okay?</p> <p>2 A Yes.</p> <p>3 Q Are you under any medications today that</p> <p>4 would impact your ability to testify --</p> <p>5 A No.</p> <p>6 Q -- truthfully?</p> <p>7 A No, sir.</p> <p>8 Q One other kind of ground rule is that I'll</p> <p>9 try not to talk over you if you will try not to talk</p> <p>10 over me, so let me finish my question, and I'll try to</p> <p>11 let you finish your answer.</p> <p>12 A Yes.</p> <p>13 Q Fair enough?</p> <p>14 A Yes.</p> <p>15 Q Could you give me your date of birth, Mr.</p> <p>16 Seward?</p> <p>17 A April 11th, 1949.</p> <p>18 Q And your current address?</p> <p>19 A 315 Carriage Lake Lane, Stockbridge,</p> <p>20 Georgia, 30281.</p> <p>21 Q How long have you lived at that address,</p> <p>22 Mr. Seward?</p> <p>23 A It was about -- since '98. Ten years.</p> <p>24 About ten years.</p> <p>25 Q Roughly ten years?</p>	<p>1 Q Do you have children?</p> <p>2 A Yes.</p> <p>3 Q How many?</p> <p>4 A Three.</p> <p>5 Q What are their ages?</p> <p>6 A Thirteen, 37, and 30 -- no. Wait. Let me</p> <p>7 back up. Thirteen, 36, and 33.</p> <p>8 Q I want to get some background on your</p> <p>9 employment with IBM.</p> <p>10 A Yes, sir.</p> <p>11 Q Let's start with your current position at</p> <p>12 IBM. What is your title? What do you call yourself?</p> <p>13 A I'm a senior customer representative.</p> <p>14 Q Who do you report to?</p> <p>15 A Juanlyn Williams. That's J-A-U-N-L-I --</p> <p>16 L-Y-N, Williams. Like Juan and then Lyn on the end.</p> <p>17 Q Who does Miss Williams report to, if you</p> <p>18 know?</p> <p>19 A Sharon Lofton.</p> <p>20 Q And who does Miss Lofton report to, if you</p> <p>21 know?</p> <p>22 A I'm not sure. I -- I'm sorry. I'm not</p> <p>23 sure.</p> <p>24 Q Are you within a particular business unit</p> <p>25 or division of IBM? For example, GTS, IMBPD?</p>
Page 11	Page 13
<p>1 A Ten years.</p> <p>2 Q Have you ever been known by any other names</p> <p>3 than Charles Seward?</p> <p>4 A No, sir.</p> <p>5 Q Briefly could you describe your educational</p> <p>6 background?</p> <p>7 A Just technical training. High school,</p> <p>8 technical training. Computers, computer operations.</p> <p>9 Q Has the technical training primarily been</p> <p>10 through IBM?</p> <p>11 A Yes.</p> <p>12 Q I may have covered this in my previous</p> <p>13 questions, but is this the only lawsuit you have ever</p> <p>14 filed as a plaintiff?</p> <p>15 A Yes.</p> <p>16 Q Never been sued before?</p> <p>17 A No, sir.</p> <p>18 Q Have you ever filed any type of</p> <p>19 administrative complaint against an employer like an</p> <p>20 EEOC charge, a Department of Labor complaint?</p> <p>21 A No.</p> <p>22 Q And you are married?</p> <p>23 A Yes.</p> <p>24 Q How long have you been married?</p> <p>25 A Let's see. Fourteen years.</p>	<p>1 A They -- I believe it references IMBP as the</p> <p>2 organization. I know they've changed it, but I'm not</p> <p>3 clear on that new terminology that they have with all</p> <p>4 the title for the department -- organization.</p> <p>5 Q Do you happen to know what IMBP stands for?</p> <p>6 A I hear it all the time. I don't. I'm</p> <p>7 sorry.</p> <p>8 Q How long have you reported to</p> <p>9 Miss Williams?</p> <p>10 A Two years -- January 17 of 2009 will be two</p> <p>11 years.</p> <p>12 Q So you started reporting to her in January</p> <p>13 of 2007; is that correct?</p> <p>14 A That's correct.</p> <p>15 Q Are you in what's called the SCET group?</p> <p>16 A Yes.</p> <p>17 Q Do you know what SCET stands for?</p> <p>18 A Software Entitlement -- let's see.</p> <p>19 Software Customer Entitlement. I don't know what the</p> <p>20 T stands for. Team.</p> <p>21 Q Team?</p> <p>22 A Software Customer Entitlement Team.</p> <p>23 Q Have you been on that team since January of</p> <p>24 2007?</p> <p>25 A That's correct.</p>

Witness: Charles Seward

5 (Pages 14 to 17)

Page 14	Page 16
<p>1 Q Before you joined the -- and I'll refer to 2 it as the SCET Team. Is that fair? 3 A Yes. 4 Q And you know what I'm talking about? 5 A Yes. 6 Q Before you joined the SCET Team, what team 7 were you on? 8 A It was called the Teach, just like it 9 sounds. Teach Team. 10 Q How long were you on that team? 11 A Oh, let's see. Eight years. 12 Q Did you report to one supervisor that 13 entire time, or did they change? 14 A They changed. Yes, they changed. 15 Q Let's work backwards. At the -- let's 16 start in, say, December of 2006, shortly before you 17 transferred over to the SCET -- 18 A Yes, sir. 19 Q -- Team? Who were you reporting to? 20 A Kerry Bethea. 21 Q Do you know roughly how long you reported 22 to Mr. Bethea? 23 A Three -- three years. 24 Q I'm correct that Kerry Bethea is a he? 25 A Yes.</p>	<p>1 what you believe to be 1992, what location were you 2 working in? 3 A I was in Somers, New York. 4 Q And then when you returned in September of 5 1998, what location did you return to? 6 A Atlanta. 7 Q Did you return to the facility that you are 8 working at now in Atlanta? 9 A Yes. 10 Q What do you refer to that facility as? 11 A Riveredge. 12 Q Riveredge? 13 A Uh-huh. All one word. 14 Q Have you been at the Riveredge facility 15 since September of 1998? 16 A We were -- we were -- was at the -- let's 17 see. I'm only going to do ballpark. I know we left 18 for about two years, I believe, and we went to the 19 Highlands facility in Smyrna. I believe roughly we 20 were there maybe two years, I think. 21 Q Do you recall the time -- I didn't mean to 22 talk over you. Do you recall the time frame? 23 A No. I'm sorry. I don't know exact year 24 and month that we went over there, and then we came 25 back.</p>
Page 15	Page 17
<p>1 Q Do you recall who you reported to prior to 2 Mr. Bethea in the IBM Teach Team? 3 A Esther Alston. 4 Q And do you know roughly how long you 5 reported to Esther Alston? 6 A Roughly two years. 7 Q And before Miss Alston? 8 A I'm -- let's see. Linda Wormley, just like 9 it sounds. Wormley, W-O-R-M-L-Y. Wormley. 10 Q Wormley? 11 A Yeah. 12 Q Let me go back in time a little bit now. 13 How long have you worked for IBM? 14 A Thirty-eight years, seven months. 15 Q So you started in 1970? 16 A That's correct. 17 Q Was there a period of time -- of time in 18 the late 1990s when you left IBM and then returned? 19 A That's correct. 20 Q Could you describe the circumstances of 21 that? 22 A They had a early -- like a bridge 23 retirement, and I left in '92, I believe, July of '92, 24 and then I came back in September of '98. 25 Q When you -- strike that. When you left in</p>	<p>1 Q Came back to the Riveredge? 2 A Yes. 3 (Thereupon, marked for identification, 4 Defendant's Exhibit D1.) 5 BY MR. RAY: 6 Q I'm going to hand you what's been marked as 7 Exhibit 1, Mr. Seward, and ask you just to take a look 8 at that and see if you recognize it? 9 A Yes, I sure do. 10 Q Is that your offer letter from IBM when you 11 returned in 1998? 12 A That's correct. 13 Q And it says, I believe there in the first 14 sentence, "I am pleased to confirm your acceptance of 15 the IBM Corporation offer of employment to you as a 16 Teach representative reporting to Linda Wormley in 17 Atlanta, dash, Teach." 18 Did I read that correctly? 19 A Yes. 20 Q So when you returned in 1998, did you go 21 into that Teach Team we've been discussing? 22 A Yes. 23 Q The next sentence there, Mr. Seward, says, 24 "Your salary will be 19 -- or \$1,983 monthly plus 25 benefits," and then the next sentence says, "All hours</p>

Witness: Charles Seward

6 (Pages 18 to 21)

Page 18	Page 20
<p>1 worked in excess of 40 per week will be compensated at 2 a rate of time and one-half." 3 Did I read that correctly? 4 A That's correct. 5 Q Did you understand at the time of receiving 6 this letter, that you would receive overtime for work 7 in excess of 40 hours a week? 8 A Yes. 9 Q Did you, in fact, receive overtime pay in 10 1998 when you returned, for example? For work in 11 excess of 40 hours per week? 12 A I don't recall. 13 Q At some point -- at some point you have 14 alleged in this lawsuit that you have not received 15 overtime pay for work in excess of 40 hours a week; 16 correct? 17 A Correct. 18 Q At some point you must have realized that 19 you were not receiving pay -- allegedly not receiving 20 pay for work in excess of 40 hours per week. Do you 21 recall when that point was? 22 A I -- I don't have the -- a time period. 23 Q Do you recall if it was when you were in 24 IBM Teach, or when you were in the SCET group? 25 A In Teach.</p>	<p>1 what point did you decide or determine that you in 2 fact were not receiving, in your view, overtime for 3 work performed in excess of 40 hours per week? 4 A At least three years prior to -- I mean, 5 I'm trying to think. I really can't answer that 6 specific time. I know I had -- I -- I'm sorry. I 7 don't have it. 8 Q Is it sometime during the time you reported 9 to Mr. Bethea? 10 A Yes. Or -- yes. Yes. 11 Q And as a follow-up to that, was there some 12 kind of document you received from Mr. Bethea, a 13 conversation you had from Mr. Bethea or someone else 14 that triggered this conclusion in your mind that you 15 were not being paid for work performed in excess of 40 16 hours a week? Were not being paid overtime? 17 A Just -- humm. Just training on the -- what 18 we call the Avaya system. Prior to that, I had some 19 -- some reservations about it, but when we started 20 having new training on coming in early and bringing up 21 the system early, again, that triggered it even more. 22 Q Was the Avaya training -- or let me back 23 up. Was the Avaya system a new system at the point 24 we're talking about this training? Or was this 25 continuing training?</p>
Page 19	Page 21
<p>1 Q Do you recall if it was when you were under 2 Mr. Bethea, or one of the previous supervisors? 3 A I focused in when I was working for 4 Mr. Bethea. 5 Q But you don't recall a specific time or 6 incident where you started to believe or discovered 7 that you were not, in your view, receiving pay for 8 work in excess of 40 hours a week; is that correct? 9 MR. ZOURAS: To the extent -- let me just 10 pose an objection. To the extent this calls for 11 a legal conclusion in terms of what compensable 12 work is, I'm going to object. You can -- Mr. 13 Seward can answer, of course, to the best of his 14 ability. 15 THE WITNESS: Let me -- can you rephrase the 16 question? Are you asking for the time, or like a 17 period? I'm not sure if I understand the 18 question. 19 BY MR. RAY: 20 Q Fair enough. Let me try to rephrase it. 21 In the lawsuit you are alleging that you have not been 22 paid for work that you had performed in excess of 40 23 hours per week; correct? 24 A Correct. 25 Q And what I'm just trying to learn is at</p>	<p>1 A It was not new. It's just -- it was a -- 2 revolving. It was getting new releases of it. 3 Q So sometime during the time that you were 4 reporting to Mr. Bethea and receiving this Avaya 5 training, you -- 6 A Yes. 7 Q -- you determined that -- or you believe 8 that you were not receiving overtime for work in 9 excess of 40 hours per week? 10 A That -- that -- during the training was 11 when I -- was not the initiation of my thoughts about 12 that. It was prior to that, but it was amplified 13 after that training with Avaya. 14 Q And this amplification, was that still 15 during the time period you reported to Mr. Bethea? 16 A Yes. 17 Q We'll come back to that in some detail, I 18 believe, but I want to come back to your job duties 19 and your history with IBM. Okay. We started, I 20 think, when we were talking about your jobs, with a 21 discussion of the SCET Team, and you've been on that 22 team, I believe, since January of '07 -- 23 A Yes. 24 Q -- is that correct? 25 A Yes. I got to stop --</p>

Witness: Charles Seward

7 (Pages 22 to 25)

Page 22	Page 24
<p>1 Q Can you tell me, Mr. Seward, what your job 2 duties are on that team? What do you do? 3 A Currently? 4 Q Yes. 5 A We receive inbound calls from customers 6 after it's -- it has been determined that they did not 7 have -- or the front-end agent for the department 8 could not find valid support contracts for their 9 software systems, software running on their systems. 10 Q So it -- you said you get the calls if the 11 front-end agent, I think was the term you used -- 12 A Yes, sir. 13 Q -- can't resolve the problem? 14 A That's correct. If they call and the 15 customer would like technical assistance, if they 16 cannot find support, if they don't have a contract on 17 file or they can't locate it, then they will transfer 18 the customer to the SCET Team, where we'll investigate 19 if they have a valid contract on file. 20 Q The first -- the first-line rep who 21 initially deals -- 22 A Yes. 23 Q -- with the call, are they -- are they also 24 on the SCET Team, or are they on a different team? 25 A They're under the same manager, but they're</p>	<p>1 A Correct. 2 Q -- reps? Do you also deal with calls that 3 come in through a queue? 4 A Yes. 5 Q Can you describe that for me? 6 A Basically what that is, is a customer may 7 place a inquiry about support electronically from 8 their remote location. In other words, they do not go 9 through the software receive agent, and then an agent 10 like myself or my peers will go into that queue and 11 investigate a call. Pull one off and investigate the 12 call and contact the customer. 13 Q On the average do you spend more time on 14 inbound calls from customers or dealing with the 15 queue? 16 A Inbound. 17 Q So you're dealing with inbound calls from 18 customers. You also spend some time with this queue 19 that you describe? 20 A Yes. 21 Q Any other types of calls or activities that 22 you perform regularly? 23 A I can't think offhand, no, sir. 24 Q Have you been -- during the entire time 25 that you have been on the SCET Team have you been</p>
Page 23	Page 25
<p>1 -- they're called the CET team: Charlie, Edward, Tom. 2 They're what they call front-end agents. The majority 3 of those agents are contractors at this current time, 4 and they're the -- the front end -- they investigate 5 preliminary with the customer, but they work under 6 Juanlyn Williams also. 7 Q Do they refer -- are they ever referred to 8 as call receive agents? 9 A Yes. That might be software receive call. 10 That's it. Software receive call agent. 11 Q Do you know -- I think you said that most 12 of those are contractors at this time? 13 A Yes. 14 Q Do you know how many IBM employees, either 15 regular or supplemental, are on that particular team 16 under Miss Williams? 17 A No, sir. 18 Q And then we were talking about the SCET 19 Team. Do you know roughly how many employees are on 20 the SCET Team that report to Miss Williams? 21 A Supplemental -- I'm sorry. I don't know 22 that number. 23 Q Well, you said that on the SCET Team you 24 receive inbound calls from customers that are 25 forwarded for you from the first-line --</p>	<p>1 performing essentially the same duties that you just 2 described? 3 A Basically, yes, sir. I've been in training 4 also. Like one of those, nine months from the first 5 year we was in training mode. 6 Q With the exception of the training mode? 7 A Yes. Basically those are the same duties. 8 Q And let's talk about the training mode for 9 a minute. 10 A Yes. 11 Q When you came over to the SCET Team in 12 January of 2007, you went through training? 13 A Yes. 14 Q You went through some classroom type 15 training, correct? 16 A Yes. 17 Q How long did that training last? 18 A Went into it from March -- ballpark was 19 March of that year. Classrooms started, say the first 20 week in March of '07 through April -- to April of that 21 same year. 22 Q Was it two six-week classes? Does that 23 sound correct? 24 A Yes. Approximately two six-week classes 25 with some time off in between, and then we were -- we</p>

Witness: Charles Seward

8 (Pages 26 to 29)

Page 26	Page 28
<p>1 were like in the training mode when we went on the 2 floor. 3 Q And what do you mean by training mode when 4 you went on the floor? 5 A They were -- we was not evaluated in the 6 same -- I don't know how to explain it. The -- you 7 know, they know that we did not know all the -- all 8 the applications, so we were -- we were treated as 9 trainees even though we were on the floor. 10 Q Now that you are no longer a trainee, can 11 you describe for me the difference between being 12 treated as a trainee and just performing as a regular 13 employee like you do now? 14 A It's -- can you rephrase the question? I 15 mean -- 16 Q Well, yes. I'm just trying to get a little 17 more information on what it means to be -- or what it 18 meant to you to be treated as a trainee? For example, 19 let me try to help out. Did you have, like, someone 20 assigned to you to help mentor you or help answer 21 questions? 22 A Yes. Off and on, yes. 23 Q Were you required to -- did you have the 24 same requirements with respect to logging into the 25 phone, using AUX codes, those types of things when you</p>	<p>1 A Yes. Yes. 2 Q And at that point you did have scheduled 3 time? 4 A Yes. 5 Q And is what you're saying that during that 6 scheduled time as a trainee, you had to still get 7 there at your scheduled time and do what the other 8 call reps were doing? 9 A Correct. 10 Q And we'll come back in some detail to what 11 you have to do to get ready for the shift and those 12 types of things. 13 A Yes. 14 Q During the inclass training only, during 15 those classroom moments, are you in this case alleging 16 that you were required to work off the clock? And by 17 that I mean, were you required to work over 40 hours a 18 week and not get paid for it? 19 A Not when we were in class, no. 20 Q I want to go back now to your job duties, 21 and we've talked about SCET. Let's go back in time to 22 IBM Teach. Can you describe your job duties in IBM 23 Teach? 24 A My particular duties were, we receive 25 inbound calls from customers to enroll them into IBM</p>
Page 27	Page 29
<p>1 were a trainee? 2 A When we have scheduled time, yes. 3 Q Did you always have scheduled time while 4 you were a trainee? 5 A Yes. 6 Q And what did you mean -- what do you mean 7 by scheduled time? 8 A You are assigned your start time that you 9 are supposed to be up and ready and available to 10 receive calls. 11 Q And so as a trainee -- well, let me back 12 up. When you were in the classrooms, in the classroom 13 training, we talked about -- 14 A Yes. 15 Q -- did you have scheduled time then? 16 A To be at the class? 17 Q Yes. 18 A Yes. We had a -- a scheduled start time 19 for the class. 20 Q Did you have to be logged into your tools, 21 computer, phone at the start of the class? 22 A No. 23 Q Then after the class ended, you went into 24 this training mode where you were actually on the 25 floor? Is that accurate?</p>	<p>1 training classes performed by IBM and also IBM 2 business partners. Also there is -- was some 3 administrative duties. In my case my administrative 4 duties were -- I was given duties of administrating 5 credit cards. 6 Q What did that entail? 7 A Verifying the funds, allocating the funds 8 for the class through the credit card that the 9 customer provided for the enrollment. 10 Q So did you perform this credit card 11 verification function for more than just your calls? 12 A That's correct. 13 Q In 2006 when you were reporting to 14 Mr. Bethea -- you were reporting to Mr. Bethea in 15 2006; correct? 16 A Yes. 17 Q Roughly how many people were in IBM Teach? 18 A I'm sorry. I don't know. 19 Q Were there -- Mr. Bethea obviously 20 supervised some IBM Teach call center employees; 21 right? He supervised you? 22 A Yes. 23 Q Were there other teams that did IBM Teach 24 that were supervised by people besides Mr. Bethea? 25 A That were Teach? Or --</p>

HUNDT REPORTING

214-220-1122

Witness: Charles Seward

9 (Pages 30 to 33)

Page 30	Page 32
<p>1 Q That were IBM Teach?</p> <p>2 A Yes, because at one -- at one time the</p> <p>3 department was very large, so there's more than one</p> <p>4 manager.</p> <p>5 Q Do you recall who the other managers were</p> <p>6 who were involved in IBM Teach?</p> <p>7 A Just when -- when Esther Alston was my</p> <p>8 manager, Kerry Bethea was the manager of the other</p> <p>9 group of Teach representatives.</p> <p>10 Q What about when Mr. Bethea became your</p> <p>11 manager? Were there still other IBM Teach teams?</p> <p>12 A I believe he took over the whole department</p> <p>13 after Miss Alston left.</p> <p>14 Q When -- why did you leave IBM Teach to go</p> <p>15 into the SCET?</p> <p>16 A The Philippines took over our duties.</p> <p>17 Q Took over the IBM Teach role?</p> <p>18 A Yes, sir.</p> <p>19 Q What floor are you on at the Riveredge</p> <p>20 facility?</p> <p>21 A Fifth floor.</p> <p>22 Q Fifth floor? And how long have you been on</p> <p>23 that floor?</p> <p>24 A Approximately -- between the two</p> <p>25 departments, four years.</p>	<p>1 Q I think in your previous answer you</p> <p>2 mentioned the eighth floor?</p> <p>3 A Right. But I'm just going to leave that</p> <p>4 one alone.</p> <p>5 Q You're not sure about that?</p> <p>6 A I'm not sure. I'm not going to speak on</p> <p>7 something I'm not --</p> <p>8 Q So currently you're aware of fourth and</p> <p>9 fifth floor call center type operations?</p> <p>10 A Yes.</p> <p>11 Q Is that in both buildings, or one of the</p> <p>12 buildings?</p> <p>13 A Both buildings.</p> <p>14 Q And you're on the fifth floor?</p> <p>15 A Correct.</p> <p>16 Q And you have an access card to get in;</p> <p>17 right?</p> <p>18 A Correct.</p> <p>19 Q It's a secured facility?</p> <p>20 A Correct.</p> <p>21 Q You have access to the fifth floor?</p> <p>22 A Correct.</p> <p>23 Q Do you have access to the fourth floor?</p> <p>24 A I don't go on the fourth floor.</p> <p>25 Q Do you go on any other floors besides the</p>
Page 31	Page 33
<p>1 Q And when you say between the two</p> <p>2 departments, you mean IBM Teach and --</p> <p>3 A Teach, and we went right around the corner</p> <p>4 to the other location.</p> <p>5 Q Do you know what other floors -- well, let</p> <p>6 me back up. The Riveredge facility actually has two</p> <p>7 buildings; right?</p> <p>8 A Yes.</p> <p>9 Q And that's attached at the bottom. Do you</p> <p>10 know what other floors in either of the buildings have</p> <p>11 call center type employees? And by that I mean people</p> <p>12 who are on the phones for the majority of their day?</p> <p>13 A Sure. Fourth floor. The whole fifth</p> <p>14 floor. I believe the eighth -- the eighth floor, I</p> <p>15 believe. The seventh floor I think is now -- is now</p> <p>16 vacant, I believe. But are you -- are you asking if</p> <p>17 -- if they're currently occupied, or were?</p> <p>18 Q Well, let's talk about current first.</p> <p>19 A I'm saying right now, currently, fourth</p> <p>20 floor, fifth floor.</p> <p>21 Q Currently fourth floor and fifth floor?</p> <p>22 A Yes, sir.</p> <p>23 Q Previously what other floors?</p> <p>24 A Gosh, fourth, fifth, sixth, seventh that I</p> <p>25 know for sure.</p>	<p>1 fifth floor?</p> <p>2 A During training I went to other floors.</p> <p>3 Q Other than in training?</p> <p>4 A No, sir. I don't. I don't go on the --</p> <p>5 Q There's a cafeteria, I think, on the first</p> <p>6 floor?</p> <p>7 A First floor, correct.</p> <p>8 Q I assume you go to the first floor?</p> <p>9 A Yes.</p> <p>10 Q Do you know -- on the fourth floor do you</p> <p>11 know what business unit or what teams are on the</p> <p>12 fourth floor?</p> <p>13 A I know they're technical assistants. I</p> <p>14 believe it's hardware, but I can't be certain.</p> <p>15 Q Let's go back to the fifth floor where you</p> <p>16 are, and that's the fifth floor of both buildings;</p> <p>17 right?</p> <p>18 A Yes, sir.</p> <p>19 Q And I assume that you have access to the</p> <p>20 fifth floor of both buildings?</p> <p>21 A Yes.</p> <p>22 Q Is the fifth floor made up of only -- I</p> <p>23 think you described it as IMBP. Do that I have right?</p> <p>24 A Yes. IMBPD.</p> <p>25 Q I think there's a maybe an IM --</p>

Witness: Charles Seward

10 (Pages 34 to 37)

Page 34	Page 36
<p>1 A Yes, sir.</p> <p>2 Q Are they on the fifth floor?</p> <p>3 A Yes. There's other departments, yes.</p> <p>4 Q I'm sorry?</p> <p>5 A There's other departments on that floor,</p> <p>6 yes.</p> <p>7 Q There are other departments?</p> <p>8 A Yes.</p> <p>9 Q Do you know what other departments are on</p> <p>10 that floor?</p> <p>11 A It's our Partner World, and then you also</p> <p>12 have different facets of what we do. We're software</p> <p>13 entitlement. You got hardware entitlement also.</p> <p>14 Q So there's software entitlement, hardware</p> <p>15 entitlement?</p> <p>16 A Yes.</p> <p>17 Q There's also the call receive? Is that on</p> <p>18 the fifth --</p> <p>19 A Call receive and also Partner World group.</p> <p>20 Q What is the Partner World group?</p> <p>21 A IBM has a program where they have different</p> <p>22 companies which they term business partners which sell</p> <p>23 IBM services, and again, they're in partnership.</p> <p>24 Q Are there -- within this Partner World</p> <p>25 group on the fifth floor, are there call center type</p>	<p>1 they were right next to us. Nice people over there.</p> <p>2 Q Do you know who Miss Musgrove reports to?</p> <p>3 A I believe Sharon Lofton.</p> <p>4 Q Have you ever reported to Miss Musgrove?</p> <p>5 A No, ma'am -- no, sir.</p> <p>6 Q Do you know what Miss Musgrove tells her</p> <p>7 employees about expectations with respect to logging</p> <p>8 in or being phone ready or anything about that?</p> <p>9 MR. ZOURAS: Let me object as to foundation</p> <p>10 as to time. If you can answer, by all means.</p> <p>11 THE WITNESS: I don't know what she tells</p> <p>12 them, but I know that we were all doing the same</p> <p>13 thing when it came to logging in, getting in</p> <p>14 early and getting the systems up, because we was</p> <p>15 all using the same timing mechanism, Avaya. We</p> <p>16 all had to use the same -- we were all under that</p> <p>17 same Avaya structure for logging in, so we all --</p> <p>18 everybody on the floor had to -- had to do the</p> <p>19 same -- go through the same process to get to --</p> <p>20 to clock in.</p> <p>21 BY MR. RAY:</p> <p>22 Q Well, let's talk about that process --</p> <p>23 A Yes.</p> <p>24 Q -- and then we'll come back to</p> <p>25 Miss Musgrove.</p>
Page 35	Page 37
<p>1 agents? People on the phone?</p> <p>2 A Yes.</p> <p>3 Q Do you know who the supervisor --</p> <p>4 first-line supervisors or managers are in that group?</p> <p>5 A Wendi Musgrove is her new married name.</p> <p>6 Musgrove. I'm sorry. I don't know how to spell it.</p> <p>7 Formerly Wendi Kowen with a K. K-O-W-E-N, maybe.</p> <p>8 Q Anyone else that you know of in that group</p> <p>9 that -- and I'm talking about first-line manager.</p> <p>10 A Mike Landery. I think it's L-A-N-D-R-Y.</p> <p>11 He actually is the first-line manager for a new group</p> <p>12 which is called the AT&T group. I forgot about that</p> <p>13 group also. I'm not familiar with that group.</p> <p>14 Q Not familiar with the AT&T group?</p> <p>15 A No, sir. They're right next to us, but I'm</p> <p>16 not --</p> <p>17 Q Wendi Musgrove's group, are you familiar</p> <p>18 with that group?</p> <p>19 A Yes.</p> <p>20 Q Tell me about that group.</p> <p>21 A They have been our neighbors off and on for</p> <p>22 as long as I can remember. Since I started, really.</p> <p>23 We -- both groups, when we first came to Teach, we had</p> <p>24 the business partner group was right next door to us,</p> <p>25 and even when we left that building and came back,</p>	<p>1 A Yes.</p> <p>2 Q Avaya is the phone system?</p> <p>3 A Yes.</p> <p>4 Q The call system; right?</p> <p>5 A Yes.</p> <p>6 Q And how do you log into Avaya?</p> <p>7 A Currently, or in the past?</p> <p>8 Q Let's talk about currently?</p> <p>9 A Currently it's a simple process. We just</p> <p>10 log in directly on the phone. In other words,</p> <p>11 everyone is assigned a specific code or a pass code,</p> <p>12 and that's how you will sign in.</p> <p>13 Q How many digits is the pass code?</p> <p>14 A Four. Wait a minute. I'm sorry. Five.</p> <p>15 Yes, five.</p> <p>16 Q Five digits?</p> <p>17 A Five.</p> <p>18 Q So is it as simple as literally dialing</p> <p>19 five digits and then you're logged in --</p> <p>20 A Correct.</p> <p>21 Q -- to the system?</p> <p>22 A That's what we do currently.</p> <p>23 Q From a time standpoint currently, talking a</p> <p>24 few seconds?</p> <p>25 A A few seconds.</p>

HUNDT REPORTING

214-220-1122

Witness: Charles Seward

11 (Pages 38 to 41)

Page 38	Page 40
<p>1 Q And when you say currently, what time 2 period are we talking about? The last four months? 3 The last year? How long has that been the system to 4 log into Avaya? 5 A The new system, I'm not sure when it -- the 6 new sign-on date was implemented. I'm not sure. 7 Q Has the system we've been describing, or 8 the system you described where to log into Avaya, you 9 just hit this five-digit pass code -- 10 A Yes. 11 Q -- has that been in the place the entire 12 time you have been on the SCET Team? 13 A Yes. 14 Q Was it in place for a period of time, at 15 least, that you were on the IBM Teach Team? 16 A I'm not sure. I know it transitioned over 17 to that, but I don't know when. 18 Q Did it transition over to that sometime you 19 were on IBM Teach? Is that what you're saying? 20 A Yes. 21 Q Before it transitioned over, so before the 22 current system -- 23 A Uh-huh. 24 Q -- how did you log into Avaya? 25 A We would have to -- we would bring up our</p>	<p>1 Q Now, you're not -- I won't ask it that way. 2 You also logged out of the Avaya phone system? 3 A Currently, or prior? 4 Q Let's talk currently. Fair enough. 5 Currently you also log out of the Avaya system? 6 A Yes. 7 Q And is that the equivalent of clocking out, 8 so to speak? 9 A Correct. 10 Q How long does it take to log out currently 11 of the Avaya system? 12 A A second. 13 Q A second or two? 14 A That's it. 15 Q Are you saying that if you looked at your 16 -- when you logged into the Avaya system currently and 17 logged out, under the current system, that would be 18 the time that you are clocked in to work? 19 A I -- may I expound? 20 Q Yes. Sure. I'm just trying to understand 21 what you mean by clocking in and clocking out of the 22 Avaya system. 23 A Okay. I'm trying -- I don't have the 24 ballpark time period that management gave us the 25 leeway of doing it. In other words, there was a</p>
Page 39	Page 41
<p>1 host system, our workstation, and once that -- the 2 system is up and running, there was an icon that was 3 on our screen that we would click on, and that would 4 activate the Avaya system. When -- then at that point 5 we could sign on and clock in. Basically, clock in at 6 that time. Where the current system, we did not have 7 to bring the workstation up. In other words, we just 8 could go straight to our phone and log -- clock -- and 9 log in and work -- bring our systems up. 10 Q But under the previous system you had to 11 actually log out -- or, I'm sorry, boot up your 12 workstation? 13 A Right. Right. We had to get it up. There 14 was some kind of software in there, I guess, that -- 15 that we had to actually click on it that showed that 16 we was working -- we were clocked in. We didn't use 17 the phone. We didn't physically go to the phone and 18 put the code in. 19 Q Now, you've referred to clocking in. 20 A Yes. 21 Q In the context of the Avaya system, explain 22 that for me. Is it your understanding that logging 23 into the phone system is the equivalent of clocking 24 in? 25 A Yes.</p>	<p>1 really fine -- defined way of coming in currently and 2 clocking in. Now we -- at one point we were not 3 allowed to do the current clocking in on Avaya -- in 4 other words, that few seconds logging on -- even 5 though we was in the process of bringing up our 6 system. 7 We -- but now prior to -- it might have 8 been early last year. We were -- we were given the 9 leeway that we were able -- even though our start time 10 was, say, if I can give an example, 10 o'clock, and we 11 was in the process of -- came in and we was in the 12 process of bringing up our systems, we were told that 13 we can log in now. That was early last year. 14 Prior to that, there was no early log-in 15 time. We could be working, trying to bring up our 16 system and the applications, but we were told not to 17 log in on that -- on the phones until a minute or two 18 before our start time. 19 Q Okay. Let me ask some questions about 20 that. 21 A Uh-huh. 22 Q So early last year you were given the 23 leeway to log into the phone before you logged into 24 your systems? 25 A Right. Right. Right.</p>

Witness: Charles Seward

12 (Pages 42 to 45)

Page 42	Page 44
<p>1 Q Who gave you that leeway?</p> <p>2 A Juanlyn Williams.</p> <p>3 Q And when you say early last year, you're</p> <p>4 talking about the early part of 2007?</p> <p>5 A I apologize. I don't -- I don't remember,</p> <p>6 but I -- I remember distinctly because what would</p> <p>7 happen is we would be in the process of bringing up</p> <p>8 our workstations, and we'll forget to log in, and we</p> <p>9 would be marked late. So folks would come in trying</p> <p>10 to bring up our workstations, and we would forget, so</p> <p>11 either a person would log in early and they get</p> <p>12 reprimanded for logging in early while they're</p> <p>13 bringing up their workstations, or they forgot</p> <p>14 altogether, and then they were marked late, and then</p> <p>15 they would say, you know, vice versa, you know.</p> <p>16 So finally we got an e-mail from Juanlyn</p> <p>17 indicating that we could log in early. It's not a</p> <p>18 problem; don't worry about it, and -- I'm sorry. I</p> <p>19 don't remember exactly. I know -- I have an e-mail</p> <p>20 about that, but --</p> <p>21 Q Well, I might have the e-mail.</p> <p>22 A Okay.</p> <p>23 Q So let's -- let's pull that and see if that</p> <p>24 helps you remember.</p> <p>25 (Thereupon, marked for identification,</p>	<p>1 produced in the litigation. Maybe that'll be the one</p> <p>2 that you are referring to.</p> <p>3 (Thereupon, marked for identification,</p> <p>4 Defendant's Exhibit D3.)</p> <p>5 BY MR. RAY:</p> <p>6 Q I hand you what's been marked Exhibit 3,</p> <p>7 and I ask you if you recognize that e-mail and if that</p> <p>8 happens to be the e-mail you were talking about?</p> <p>9 A Right. This is -- that's why they were --</p> <p>10 as I stated before, there was some confusion because</p> <p>11 folks were working, bringing up their workstations so</p> <p>12 they can be on time. So what happened was, people</p> <p>13 were coming in, and they were logging on and bringing</p> <p>14 up their systems.</p> <p>15 And they were -- they were told not to</p> <p>16 log in, you know, until one or two minutes prior to</p> <p>17 their start time because that would affect their --</p> <p>18 their numbers, their productivity numbers, or</p> <p>19 something of that nature. And then -- I'm trying to</p> <p>20 remember the circumstance why these e-mails went out,</p> <p>21 because people were coming in and bringing up their</p> <p>22 system, and they were logging on. While they were</p> <p>23 bringing up the system, they told them they didn't</p> <p>24 want it, and then all of the sudden they indicated, go</p> <p>25 ahead and do it; it's all right to do it.</p>
Page 43	Page 45
<p>1 Defendant's Exhibit D2.)</p> <p>2 BY MR. RAY:</p> <p>3 Q I'm going to hand you what's been marked</p> <p>4 Exhibit 2, Mr. Seward, and just first I will ask you,</p> <p>5 do you recognize that document, and then I will ask</p> <p>6 you if that happens to be the document that we're</p> <p>7 talking about? If not, I'll look for possibly another</p> <p>8 one that may be --</p> <p>9 A Yes. I remember -- I kind of remember</p> <p>10 this, yes.</p> <p>11 Q Was this the e-mail that you were talking</p> <p>12 about, or -- when you were talking about --</p> <p>13 A There's another e-mail because there was</p> <p>14 like -- there was one before this one because people</p> <p>15 were -- there was some type of confusion about --</p> <p>16 there's another one. There's another short e-mail</p> <p>17 because -- because there was a great emphasis on not</p> <p>18 logging in early, and then --</p> <p>19 Q Let me see if I can find that one for you.</p> <p>20 A Right. Because we were -- we were bringing</p> <p>21 up our systems during this. When we were in AUX-3 --</p> <p>22 Q Right.</p> <p>23 A -- we were -- we were bringing up our</p> <p>24 systems at this point.</p> <p>25 Q Let me give you one of the e-mails that you</p>	<p>1 Q So -- I'm just trying to understand. First</p> <p>2 let me ask this question. Were either of the e-mails,</p> <p>3 Exhibit 2 or 3, the e-mails that you were talking</p> <p>4 about in your previous testimony when you were talking</p> <p>5 about an e-mail saying it was okay to log in?</p> <p>6 A Right. These are it, but I thought this</p> <p>7 was earlier last year, but -- yes, I think those are</p> <p>8 the two e-mails.</p> <p>9 Q So is there -- and I just want to try to</p> <p>10 understand what you were saying.</p> <p>11 A Uh-huh, yes.</p> <p>12 Q There was a period of time where people</p> <p>13 were logging into their systems and logging into the</p> <p>14 phone simultaneously, and they were getting</p> <p>15 reprimanded or disciplined or -- is that accurate?</p> <p>16 A That's correct. That's correct.</p> <p>17 Q Because it would affect their productivity?</p> <p>18 A That's correct.</p> <p>19 Q Do you know what period of time that was?</p> <p>20 A Basically, last year. Now is not -- this</p> <p>21 issue doesn't come up. They don't talk about it.</p> <p>22 Q Who was being reprimanded?</p> <p>23 A That, I can't speak on.</p> <p>24 Q Who was doing the reprimanding?</p> <p>25 A The manager, Juanlyn Williams. Also Kerry</p>

HUNDT REPORTING

214-220-1122

Witness: Charles Seward

13 (Pages 46 to 49)

Page 46	Page 48
<p>1 Bethea in my old job, in the one prior, in Teach. 2 There's e-mails out there from our lead, indicating 3 that we should not, even though we was in and working 4 and -- not to log in but a minute or so prior to our 5 start time. 6 Q We'll come back to Mr. Bethea. And I may 7 have some e-mails that talk about log-in times, but -- 8 for Mr. Bethea, but I'll come back to him in just a 9 second. But you were talking about people getting 10 reprimanded for -- and I want to make sure I 11 understand what they were getting either disciplined 12 or reprimanded or told not to do for. Were they being 13 disciplined for logging into the Avaya system before 14 logging into the computer systems or their tools? 15 A It was -- I'm just going to use myself as 16 an example. It's in concert. You being -- you're 17 bringing up the system. You log on, put yourself in 18 AUX-3, and you start bringing up your system. That's 19 basically it. But what happens, I guess, their 20 records are showing that they're at work when they are 21 in AUX-3. 22 Q So it's simultaneous or -- when -- 23 A Correct. 24 Q -- you are logging into the system, the 25 computer system, in Avaya?</p>	<p>1 Miss Williams or Mr. Bethea? 2 A The employees at Partner World and also the 3 hardware entitlement group. They were in the same 4 arena also, and there were other groups. I'm not sure 5 what -- what products they use for monitoring their 6 productivity, but I know the hardware group or the -- 7 the techs on the fourth floor have -- they basically 8 was in that same arena also. But I know definitely 9 the entitlement received calls. Partner World. We 10 all were under that same Avaya system. 11 Q Let me start with the techs on the fourth 12 floor. 13 A Yes. 14 Q I think you said you never go to the fourth 15 floor? 16 A No. But we -- they're outside, lunchroom. 17 Some have motorcycles, talk. I know we've been in 18 there -- there was a lot of transition in that group, 19 but over ten years I guess you can talk a lot. 20 Q Is -- do you know what business unit the 21 techs on the fourth floor are in as you described? 22 Are they in IMBPD or some other one? 23 A No. No. I never seen that group under our 24 umbrella when we see like, you know, e-mails come 25 across. I don't believe I see that group included</p>
Page 47	Page 49
<p>1 A Correct. 2 Q And there was a period of time that -- when 3 that was happening, people were being told not to do 4 that by Miss Williams or Mr. Bethea? 5 A Correct. 6 Q And then I think you said currently it's 7 okay to do that? 8 A Correct. 9 Q And you're not sure when that change 10 occurred? 11 A That's correct. 12 Q Are you aware of any other managers who 13 have disciplined anyone currently or in the past? For 14 that practice of logging into the phone and the 15 computer system simultaneously? 16 A I -- yes, but I'm not witness of it. I 17 just, with my fellow in, you know Partner World and 18 other entitlement agents. They were under the same 19 guidelines that we were, but I -- I was not witness to 20 it. I wasn't witness. I didn't see the e-mails. I 21 didn't see any of that, but I know that they were 22 under the same process that we were. 23 Q And who -- who specifically has told you, 24 or discussed with you the processes they were under? 25 And I'm talking about people that were not under</p>	<p>1 with our group. Our group is mainly software and also 2 sometimes other call centers support external 3 customers. 4 Q Is it your understanding that these techs 5 on the fourth floor are under the Avaya system? Or 6 utilize the Avaya system? 7 A I won't -- I won't comment on that because 8 I do not know how they're being monitored, but I know 9 they have the same type of, you know, be there and be 10 available at their start time. But I do not know if 11 they're using Avaya. I do not know that, but I know 12 that they are required to be up and running and ready 13 to go at their start time. 14 Q And when you say be there and be available 15 at their start time -- 16 A Yes, sir. 17 Q -- the techs on the fourth floor, who 18 has -- how do you know that? 19 A Just by our conversations. Almost hit a 20 guy. We were both supposed to start about the same, 21 and we was not running, but we were kind of -- walking 22 kind of fast trying to -- because we both had to get 23 our systems up, and the applications, that's the main 24 thing, the applications. We had to have all those 25 applications up. But that was currently. I had more</p>

Witness: Charles Seward

14 (Pages 50 to 53)

Page 50	Page 52
<p>1 conversations with them currently within, say, last 2 couple of years, three or four years. I really didn't 3 have that much interaction with them prior to four 4 years ago, maybe. 5 Q Who have you talked to with respect to 6 these techs on the fourth floor? You've said you had 7 interaction, almost hit a person? 8 A Uh-huh. 9 Q Who are these people? Can you identify 10 them? 11 A I don't socialize with them, sir. 12 Q So you can't name them? 13 A I can't name names or -- just sports, 14 talking sports and motorcycles and cars, trucks. 15 Q And you have discussed with them their 16 expectation or their understanding of their 17 expectation with respect to being ready to go at the 18 start of their shift? 19 A Well, yes. Yes, many times, that kind of 20 stuff, because they break just like we break, and they 21 had -- they got to be back upstairs before the -- 22 their break times are monitored just like ours. 23 Q What about with respect to the start of 24 their shift as opposed to break times? Have you had 25 discussions with them about what they're supposed to</p>	<p>1 MR. ZOURAS: Let me just object to the form. 2 I think his testimony was, he could not identify 3 anybody by name. He can identify them by 4 position, where they worked, but -- I think we 5 are on the same page. 6 MR. RAY: That's fine. 7 THE WITNESS: Right. I don't know their 8 names. 9 BY MR. RAY: 10 Q I want to come back to -- I think I got a 11 little off track. We were talking about the Avaya 12 system. 13 A Yes. 14 Q And clocking in and clocking out? 15 A Yes. 16 Q And first I just want to ask the question, 17 the clock-in, clock-out time as you describe it on the 18 current Avaya system -- 19 A Yes. 20 Q -- does not equate to the time you're paid 21 for each week; is that right? In other words, that's 22 not automatically moved into payroll and you get a 23 check? It's not a time clock? 24 A No. No. No. In that sense, no. 25 Q You actually record time through the</p>
Page 51	Page 53
<p>1 do to be ready for the start of their shift? 2 A That's interesting, because basically they 3 might have different applications, but they still use 4 some -- a couple of different applications we use, I 5 guess, just to -- to verify support, but they're 6 supposed to have all the applications up and running 7 and ready to receive call at their start time. 8 Q And have they told you how long that takes? 9 A No, sir. No, sir. 10 Q Have they told you whether they're entitled 11 to record that time as time worked? 12 A I asked now about that, and they said no. 13 Q You asked who that? 14 A I asked a couple of agents over there, but 15 I could find out the name, but I don't know their 16 names. 17 Q I'll leave a blank in the deposition 18 transcript. I assume you-all would want to review it, 19 and if you want to fill it in, you can. 20 A Okay. 21 Q Okay. So you can't identify anyone you've 22 talked to about this, but you believe that the fourth 23 floor is the same as the fifth floor with respect to 24 log-in expectations to being I guess phone ready or in 25 the computers?</p>	<p>1 eTOTALS system, right? 2 A Actually, we do the ILC weekly. 3 Q You use the ILC system? 4 A Yes. 5 Q Do you not use the eTOTALS system? 6 A Only if there's overtime or illness, like 7 you're out ill. 8 Q We'll come back to those two. 9 A Okay. 10 Q I want to go back now and talk to you 11 specifically about what has been told to you about 12 arrival times and those types of things, because we've 13 kind of talked around it, but I don't think I've asked 14 the direct question. What -- let's start with 15 Miss Williams. Okay? When you first started in SCET 16 did Miss Williams communicate to you an expectation 17 regarding arrival times, what you needed to be doing 18 -- what you needed to be ready to do at the start of 19 your shift, those types of things? 20 A Yes. We should be up and ready to receive 21 calls at our start time. 22 Q And how did she communicate that? 23 A When we first started training and then we 24 went on the floor. The expectations and overview of 25 the job in our training class, and then when we went</p>

HUNDT REPORTING

214-220-1122

Witness: Charles Seward

15 (Pages 54 to 57)

Page 54	Page 56
<p>1 on the floor, she also expounded on that to be up and 2 ready. 3 Q Did -- so did, she actually talk about this 4 in your training? 5 A She expounded on what's -- her expectations 6 of us, on being available -- up and available to 7 receive calls at our start time. I will -- may I 8 expound? 9 Q Sure. 10 A During the training time there was -- the 11 early training time when we came on the floor, there 12 was a time where she allowed us to look at some of our 13 work before we went into what we call available state, 14 but at one point we were supposed to be up and ready 15 to receive phone calls at our start time. If my start 16 time was 10 o'clock, we were supposed to be up, ready, 17 all your applications. You're supposed to be ready to 18 receive calls at that time. 19 Q And to be up and ready to receive calls as 20 you described it, what do you need to do? 21 A You should have all your applications up 22 and ready to be used, signed on. Not just icons up, 23 but you should be -- they should be all up and active. 24 I know -- you can start receiving calls when all your 25 applications up and running, and your phone -- and</p>	<p>1 applications? 2 A Yes. 3 Q But previously you had to log into your 4 applications before you logged into the Avaya switch? 5 A Correct. 6 Q And you're not sure when that change -- 7 A No. I don't know when exactly that change, 8 but that's -- the key here is that they didn't -- they 9 did not want us to log in on that phone until a minute 10 or so prior to our start time. 11 Q And that was communicated to you by 12 Mr. Bethea? 13 A Yes. 14 Q And also Miss Williams? 15 A That's correct. 16 Q And then sometime during Miss Williams' 17 tenure, it changed? 18 A Right. We went to these notes here because 19 people was either logging in late or -- and then it 20 was -- say, it doesn't matter if they're -- there was 21 some discussion, but I don't want to put anybody else 22 out there. 23 Q So at the time that this sequence change 24 that allowed you to log in simultaneously to both the 25 applications and the phone switch, did your</p>
Page 55	Page 57
<p>1 then you sign -- have to your -- your Avaya sign-on 2 sheet would be completed also. 3 Q Is there an actual available button on the 4 phone? 5 A Yes. Yes. Basically what happens, when 6 you log on your five-digit code, I'll put myself in 7 AUX-3 code while I'm bringing up my system. 8 Q Right. 9 A And then once my system is up, everything 10 is ready to go, I'll hit available. 11 Q Let's talk about the applications. 12 A Yes. 13 Q Well -- and let me back up. To be up and 14 ready, you need to be -- and do your applications, 15 signed onto the Avaya? 16 A Yes. 17 Q And ultimately I guess hit that available 18 button? 19 A Correct. 20 Q Earlier we talked a little bit about 21 sequence, but I want to make sure, now that we've 22 talked about this in more detail, I understand it. 23 Recently, and you're not sure when this shift 24 happened, you were allowed to sign into or log onto 25 the Avaya system simultaneously with your</p>	<p>1 practice -- what did your practice become at that 2 point? Did you start logging in simultaneously to the 3 applications? 4 A Well, me personally -- 5 Q Yes. 6 A -- I logged in. This way I knew I would 7 not be marked late, but I still had to start bringing 8 up my systems. 9 Q I may have missed a part of it. Did you 10 start logging into your phone first to make sure you 11 weren't late? 12 A I -- I just logged in, yes. I logged in, 13 and then when my 10 o'clock -- when all my systems 14 were available, I hit available. 15 Q So at some point you started as a regular 16 practice logging into the Avaya system first, then the 17 computer system? From a sequencing standpoint? 18 A Yes. 19 Q And you're not sure when that process 20 started? 21 A Basically when she indicated here it did 22 not matter. It did not matter if we logged in, you 23 know. We went into AUX-3, so then, you know, but -- 24 Q And prior to this change that we've been 25 talking about, you would log in, as a regular</p>

Witness: Charles Seward

16 (Pages 58 to 61)

Page 58	Page 60
<p>1 practice, to the applications first, then into the 2 phone? 3 A That one minute before our start time, yes. 4 In other words, I'll be bringing up my system. Give 5 you an example. My start time is 10 o'clock. 6 Q Right. 7 A If I come in 20 after nine, say, I'll -- or 8 say I come in 20 minutes to ten, I'll start bringing 9 up my systems. My applications, the workstation as a 10 whole. Then it's almost ten. One minute before ten, 11 five-digit code. I'm in AUX-3. At 10 o'clock I hit 12 available. 13 Q And that was -- I mean, the sequence you 14 just talked about was logging into your applications 15 first? 16 A Yes. 17 Q As opposed to the phone? 18 A Right. 19 Q Is that -- that's not what you do 20 currently, or -- 21 A Now, since there's no -- I'll just log in 22 so I will never forget to be late. 23 Q Okay. 24 A You see? So it really doesn't matter 25 because there was such emphasis on one minute or two</p>	<p>1 Center. Next one is -- can I expound a little bit? 2 They just took some -- do you want the ones that 3 during this whole process, or the ones currently? 4 Q Let's talk currently. Then we'll go 5 backwards. Okay? 6 A Okay. SB, as Sam Baker, Client. 7 Q Is SB the same as Client? 8 A No. Actually, it's an SBClient. It's an 9 application. Let's see. See how I can do this. I'm 10 trying to look at my screen while I'm bringing up all 11 this stuff. Fastpass. That's F as in Frank, 12 A-S-T-P-A-S-S. CC -- wait. CMCICS. PMINQ, QL -- I'm 13 sorry. QSLAM. Contracts On Line. CallOwn, all one 14 word, C-A-L-L-O-W-N. Let's see what else I got here. 15 I'm trying to remember everything off the top of my 16 head. Let's see. BrioQuery. That's B-R-I-O, Query, 17 Q-U-E-R-Y. SW Entitlement reports. I'm trying to 18 think of what else here. Let's see. I said Lotus 19 Notes; right? 20 Q Yes. 21 A Can you read them back to me? I know 22 there's additional, but I'm trying to remember 23 everything that we got. 24 Q Lotus Notes, Call Center, SBClient, 25 Fastpass, CMCICS, PMINQ, QSLAM?</p>
Page 59	Page 61
<p>1 minutes before your start time, to log in then. Now 2 they told us they don't -- they -- they don't care. 3 There was some -- something happened where this note 4 went out that freed up this -- whatever it was. 5 Something happened for this note to come out. I 6 forgot what it was or who was involved. Something 7 happened where the management team came out and said, 8 hey, it doesn't matter; just log in anytime you want. 9 MR. ZOURAS: When you refer to note, can you 10 just tell us -- 11 BY MR. RAY: 12 Q Which exhibit? 13 MR. ZOURAS: Thank you. 14 THE WITNESS: Exhibit 2 and 3. 15 MR. ZOURAS: Thank you. 16 THE WITNESS: I'm sorry. 17 MR. ZOURAS: No. You're fine. 18 BY MR. RAY: 19 Q Okay. We have talked about applications, 20 logging into applications. Let's talk about 21 currently, because I assume they have changed 22 certainly between IBM Teach and SCET. What 23 applications currently do you have to log into to be 24 ready for your day? 25 A Lotus Notes. Let's see. Lotus Notes, Call</p>	<p>1 A QSLAM, yes. 2 Q Contracts On Line, CallOwn, BrioQuery, and 3 SW Entitlement. 4 A Also BP, BP Contracts. Let's see. A 5 couple more. How many is that? 6 Q I count 16. 7 A Yeah. I think there's a couple more, but I 8 can't remember the rest. 9 Q Well, let me ask you real quick -- and the 10 tape is about to end. Do you log into all of these 11 tools first thing in the morning, or do you log into 12 some throughout the day? 13 A First thing in the morning. They all 14 require a password. 15 Q So you log into every single one of these 16 tools -- 17 A That's correct. 18 Q -- you just described? 19 A None of them come up on their own without a 20 password. 21 Q Let me finish my question. I think we 22 talked over each other just a little bit. So first 23 thing in the morning every day, currently, because 24 we're going to go backwards, you log into every single 25 one of these before your day starts?</p>

Witness: Charles Seward

17 (Pages 62 to 65)

Page 62	Page 64
<p>1 A That's correct. They should be up and 2 running. 3 Q Have you ever been told that you don't 4 necessarily need to log into every tool until -- you 5 may not need the tool that day? 6 A Correct. I -- let me back up. I would use 7 -- I would log onto everything that I would normally 8 use first. You're correct. 9 MR. RAY: The tape is about out. Let's take 10 a break, and then we'll let the tape get changed. 11 THE VIDEOGRAPHER: Off video. 12 (Thereupon, a recess was taken.) 13 THE VIDEOGRAPHER: On video. 14 BY MR. RAY: 15 Q Mr. Seward, before the break we were 16 talking about the tools that you currently use. 17 A Yes. 18 Q And you went through, I believe, 16 or 17, 19 and I think you said you are not positive that's all 20 of them. There may be a couple more. I'm not 21 trying -- 22 A Yes. 23 Q -- to hold you to memorizing every tool. 24 You also said, I think, that you -- in the -- before 25 you start the day, you log into the tools you normally</p>	<p>1 A Let's see. The first one? Yes. 2 Q For example, does it bring up a Lotus Notes 3 icon? 4 A Yes. It shows the icon for Lotus. 5 Q And let's talk first about the -- the tools 6 you normally use. The ones that you would log into 7 regularly at the start of your shift. 8 A Yes. 9 Q I assume that would include Lotus Notes? 10 A Correct. 11 Q Which other ones? And if you would like, I 12 could read through the ones you named. 13 A Okay. I would -- I would -- I would 14 definitely need Lotus Notes, SBClient, Call Center. 15 Let's see. IEE, that's the one I forgot. Well, 16 actually IEE is the Call Center. I'm sorry. So it's 17 Call Center, SBClient, Lotus Notes, Contracts On Line. 18 Software -- let me back up. The terminology is 19 BrioQuery. Let me see. Fastpass, PMINQ, CMCICS. 20 Let's see. SBClient. Could you read it back, the 21 ones I gave you, or the ones I definitely need? 22 Q The ones you definitely -- 23 A The ones I just read? 24 Q The ones you normally -- Lotus Notes, 25 SBClient, Call Center, Contracts On Line, BrioQuery,</p>
Page 63	Page 65
<p>1 use. I think that was the phrase you used. 2 A Yes. Yes. There's -- there's a -- there 3 are tools that -- that I know I'm going to use. I 4 make sure those guys are up before the other ones are 5 -- I might have, say, a half dozen that I do not -- 6 they might time out, if you will, if you do not use 7 them. They'll log themselves off. 8 So they're there. They're up. They're 9 up, but they're not logged on with a password, but I 10 can log onto them if something happens with a customer 11 that I need additional information that that tool 12 might have for me, but those are the guys -- those 13 tools are -- are the tools that I don't use as often. 14 Q Okay. Let's talk about the tool -- well, 15 let me back up. When you come -- when you first are 16 starting to boot up the computer, I assume you have to 17 turn it on each day? 18 A Yes. 19 Q And then what is the first thing you have 20 to actually type a password or take some action to log 21 into? 22 A Yes. I have to log onto my workstation. 23 Q And once you log into your workstation, 24 does that then bring up various icons that you can 25 then log into?</p>	<p>1 Fastpass, PMINQ, CMCICS. 2 A I forgot something that I need. That'll 3 get me rolling. 4 Q Do you -- so on a regular day you would -- 5 or on a normal day you would -- when you are getting 6 ready to work, you would log into these tools you just 7 described? 8 A Right. I need those guys to get going. 9 Q Does every one of these tools you just 10 listed require a password? 11 A Yes. 12 Q Do you do them in the same -- or do you log 13 into those tools in the same order each day? 14 A No. 15 Q So you come in -- I'm just going to walk 16 through each tool. I want to try to get an 17 understanding of how long this takes. 18 A Yes. 19 Q Okay? You turn on your computer, right? 20 A Yes. 21 Q And then how long does it take the computer 22 to boot up to the point where you can log into the 23 workstation? And I'm sure there's a range here. I'm 24 not trying to -- 25 A A half a minute or so. What happens at</p>

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